

Appl. No. : 09/829,631  
Filed : April 10, 2001

### REMARKS

Applicant wishes to thank Examiner Marianne Allen and Supervisor Michael Woodward for the courtesy extended to the inventor, Dr. Sibley, and the representative, Nancy Vensko, attorney of record, and the additional representatives, Marina Gordey and Eric Ives, on March 17, 2004. The Interview Summary Form PTOL-413 summarizes the discussions held at the personal interview. The present response to the outstanding Office Action includes the substance of the Examiner Interview.

**A. Disposition of Application**

Claims 17-28 are pending. Under Interview Summary Form PTOL-413, claim language for part c of claim 17 to avoid a new matter rejection was agreed upon. The portion of the claim has been rewritten using language reflecting that the nucleic acid is isolated from a human genomic library and hybridizes to both probes as set forth in Example 9 to make explicit that which was implicit in Claim 17(c) under *Regents of Univ. of Cal. v. Eli Lilly & Co.*, 43 USPQ2d 1398 (Fed. Cir. 1997). The requirement for a CIP oath was not resolved and applicant was encouraged to petition, which petition for review by group director filed March 25, 2004 was denied May 20, 2004. As there remains a dispute as to whether canceled claims 1-16 constitute new matter, to accelerate prosecution, a new declaration is filed herewith along with the surcharge set forth in 37 CFR 1.16(e), and the application has been redesignated as a continuation-in-part. Applicant has also amended the claims and specification to reflect the current nomenclature 5-HT<sub>6</sub> for this receptor, under Kohen et al., J. Neurochem. 66: 47-56 (1996), of record, and *Schering Corp. v. Amgen Inc.*, 55 USPQ2d 1650 (Fed. Cir. 2000). Reexamination and reconsideration of the application, as amended, are respectfully requested.

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### CONCLUSION

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

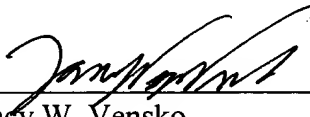
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

6/19/04

By: \_\_\_\_\_



Nancy W. Vensko  
Registration No. 36,298  
Attorney of Record  
Customer No. 20,995  
(805) 547-5585

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